

Filed May 21, 1991

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IN THE SUPREME COURT

STATE OF NORTH DAKOTA

Roberta R. Rosendahl, Plaintiff and Appellee

v.

Wayne A. Rosendahl, Defendant and Appellant

Civil No. 900391

Appeal from the District Court for Bottineau County, Northeast Judicial District, the Honorable William A. Neumann, Judge.

AFFIRMED.

Opinion of the Court by Gierke, Justice.

Foughty, Christianson, White Eagle & Berg, 411 Fourth Avenue, P.O. Box 902, Devils Lake, ND 58301, for plaintiff and appellee; argued by Maureen Foughty White Eagle.

Wayne A. Rosendahl, pro se, Box 312, Westhope, ND 58793, for defendant and appellant. No appearance.

Rosendahl v. Rosendahl

Civil No. 900391

Gierke, Justice.

Wayne A. Rosendahl appealed, pro se, from a district court judgment and decree of divorce. On appeal, Wayne contends that a number of the findings of fact made by the trial court were clearly erroneous resulting in an inequitable distribution of the property between the parties, an excessive child support award, inadequate visitation privileges, and finally an improper award of income tax exemptions to Roberta Rosendahl.

On October 23, 1989, an action for divorce was commenced in Bottineau County by Roberta. A trial in this divorce case was held on August 2, 1990. At the end of the trial, the district court issued findings of fact, conclusions of law and order for judgment which contained a number of findings of fact regarding the division of Wayne and Roberta's property, the child support award, the visitation schedule and the award of the income tax exemptions.

After a judgment and decree of divorce were entered, Wayne filed a timely notice of appeal to this Court. Wayne, however, failed to file a transcript of the district court proceedings for this appeal.

The rules of procedure are not to be applied differently merely because the party is acting pro se. Davis v.

Davis, 448 N.W.2d 619 (N. D. 1989). Rule 10(b) N.D.R.App.P., requires the appellant to furnish a transcript of the proceedings on appeal. The appellant assumes the consequences and the risks for the failure to file a complete transcript. Lithun v. DuPaul, 447 N.W.2d 297 (N.D.1989). This Court has held that on appeal the party challenging the findings of fact of a trial court has the burden of demonstrating that those findings are clearly erroneous. See Rule 52 N.D.R.Civ.P. Davis, supra 448 N.W.2d at 620. When an appellant raises issues on appeal regarding the findings of fact, it is difficult, if not impossible, for us to discuss the merits of the appeal without a transcript. Davis, supra at 620. If the record on appeal does not allow for a meaningful and intelligent review of alleged error, we will decline review of the issue. Cullen v. Williams County, 446 N.W.2d 250 (N.D. 1989).

By failing to submit a complete transcript of the district court proceedings, Wayne has not met his burden of demonstrating that the trial court's findings of fact are clearly erroneous.

The judgment is affirmed.

H.F. Gierke, III

Beryl J. Levine

Gerald W. VandeWalle

Herbert L. Meschke

Ralph J. Erickstad, C.J.